UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/550,115	TOUCHARD ET AL.
	Examiner	Art Unit
	MICHELLE OWYANG	2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 September 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-12</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-12</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>19 September 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>9/19/2005</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-12 are pending.

Information Disclosure Statement

2.   The information disclosure statement (IDS) submitted on 9/19/2005 is being considered

by the Examiner.

Priority

3.   Application 10/550115 is a national stage entry of PCT/EP04/02278 filed on 3/5/2004.

Specification

4.   The abstract of the disclosure is objected to for reciting element numbers, e.g. (40) after

"image data" should be deleted from the abstract. Note that the element numbers are repeated in

the abstract and should be correct as necessary.

5.   The specification is objected to fail to provide proper support and description for the

claimed feature of "a program that can be downloaded to portable communication equipment,

comprising instructions suited to sending routing and/or multimedia data request messages to

execute the steps of the method according to claim 1" recited in claim 12.

Claim Objections

6.   Claim 1 is objected to because the claim is using dash (-) to separate limitations; e.g. in lines 3-4 "…comprising - reception of …", dash (-) should be deleted from the claim. Note that dash (-) is repeated in the claim and should be corrected as necessary.

7.   The following claims are objected to for lack of antecedent basis:

    a.   "the reception of multimedia data routing messages', claim 1;

    b.   "the routing messages", claim 1;

    c.   "the linking", claim 1;

    d.   "the saving", claim 1;

    e.   "the reception of multimedia data requests", claim 1;

    f.   "the search", claim 1;

    g.   "the request", claim 1;

    h.   "the transmission", claim 1;

    i.   "the place", claim 3;

    j.   "the routing message", claim 3;

    k.   "the images", claim 5;

    l.   "the search operations", claim 6;

    m.   "the search and transmission operations", claim 7;

    n.   "the image request", claim 8;

    o.   "the image requests", claim 10;

    p.   "the previously recorded event data", claim 11;

q.   "the data condition", claim 11;

r.   "the processing of the multimedia data", claim 11.

8.   Claims 1 and 4 are objected to for reciting element numbers, e.g. (40) after "image data"

should be deleted from claim 1. Note that the element numbers are repeated in claims 1 & 4, and

should be correct as necessary.

9.   Claim 1 is objected to because of the following informalities: "…comprising the

reception of multimedia data routing messages…"; it is suggested to change it to *"comprising:*

the reception of multimedia data routing messages…"

10.   Claims 2-4, 6, 9-11 are objected to reciting "a method according to claim 1"; it is

suggested to from "a method according to claim 1" to "the method of claim 1". Claims 5, 7-8 are

objected to for the similar reasons as claims 2-4, 6, 9-11.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
requirements of this title.

11.   Claims 1-8, 11-12 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

With respect to claims 1-8, 11, "a method" is being recited; however, based on the

broadest reasonable interpretation, it appears that the claimed steps recited in the claims could be

performance by a person manually, and there is no machine explicitly recited or inherently

required to perform the recited steps, and there is no transformation of article. Thus, it appears

that the claimed method fails to fall within the statutory category.

With respect to claim 12, "a program" is being recited; however, it appears that the

claimed program can be reasonably interpreted as software pro se, thus the claim fail to fall

within the statutory category.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

12.   Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

With respect to claim 1, "the reception of multimedia data requests (50) *also* comprising

at least some event data" is not clearly understood rendering the claim indefinite. It appears that

the term "also" implies additional or furthermore, it is unclear what else is included in the

multimedia data requests in addition to event data.

With respect to claim 3, the term "such" the in claim is a relative term which renders the claim indefinite. The term "such" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

With respect to claim 4, the claimed feature of "the event data" is not clearly understood rendering the claim indefinite. It is unclear whether "the event data" is referred to data related to the multimedia data routing message or the multimedia data requests.

With respect claim 6, the feature of "wherein at least one of the search operations for saved multimedia data and their transmission to an addressee are conditional operations" is not clearly understood rendering the claim indefinite. It is unclear which transmission is referred by "their transmission". Secondly, unclear what is meant by "conditional operations".

With respect to claim 11, the feature of "the comparison of the data conditioning the processing of the multimedia data" is not clearly understood rendering the claim indefinite. It is unclear what is meant by "the comparison of the data conditioning the processing of the multimedia data".

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim which it depends.

Examiner's Note

13.   The term "if" recited in claim 1 suggests or makes optional but does not require steps to

be performed, thus no significant patentable weight is placed on the claimed features with the

term "if".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14.   Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (Pub

No. US 2001/0032335 A1), hereinafter, in view of Beeman et al. (Pub No. US 2003/0039410

A1), hereinafter Beeman.

With respect to claim 1, Jones discloses a method for sharing multimedia data captured by a plurality of cameras or sound recorders provided with multimedia data transmission means, comprising *([0013], [0047]: provide real-time picture communication between users including sharing pictures)*

the reception of multimedia data routing messages, the routing messages including multimedia data (40) and at least some event data (42) *([0014-0015], [0041-0045], [0048], [0059]: capture images and send images, the images are associated with data such as multimedia and event data and the images are also associated with annotations)*,

the linking to each multimedia data of an identifier according to the event data, and the saving of said multimedia data *([0045]: the image can be indexed and stored)*.

Concerning "the reception of multimedia data requests (50) also comprising at least some event data (52)", Jones discloses the reception of multimedia data requests *([0059]: sending request for images)*.

Jones does not explicitly disclose the reception of multimedia data requests also comprising at least some event data.

However, Beeman discloses the reception of multimedia data requests also comprising at least some event data *([0008], [0034], [0036], [0042], Fig5-6B: receive image retrieval request, and the request comprises key terms associated with the image attributes; it is interpreted that the attributes could be related to event data)*.

Since both Jones and Beeman are directed to capture images and managing images, it would have been obvious to one skilled in the art at the time of the invention to modify and combine the teachings of Beeman in the method of Jones by incorporating images query and

retrieval techniques in the images communication network in order to improve the ability to find user interest images *(see Beeman, [0006])*.

The combined teachings of Jones and Beeman further discloses the search for at least one saved multimedia data, linked to an identifier according to an event data (42) corresponding to the event data (52) of the request *(see Jones, [0087],[0091], [0171], [0191-0194]: select picture from director; and see Beeman, [0008], [0039], [0046]: search the database for match images)* , and

if the search finds at least one multimedia data, the transmission of the multimedia data to an addressee *(see Jones, [0014-0015], Fig 5 & 14-19: send image to recipient; and see Beeman, Fig 6A-6B, [0040]: present retrieved image to user)*.

With respect to claim 2, the combined teachings of Jones and Beeman further discloses wherein the multimedia data include data relative to images, video clips, sound recordings, text and/or any combination of such data *(see Jones, Fig 1: pictures, voice, text; and see Beeman, Fig 3-5: image)*.

With respect to claim 3, the combined teachings of Jones and Beeman further discloses wherein the event data contained in the multimedia data routing message are set according to the place and date of transmission of the routing message *(see Jones, [0041-0044]: event data are associated with the place and date of transmission; and see Beeman, [0036]: image attributes could be associated with data such as date, place and other metadata related to the image)*.

With respect to claim 4, the combined teachings of Jones and Beeman further discloses wherein the event data are established by a telecommunications operator (30) transmitting the multimedia data routing messages *(see Jones, [0041-0044], Fig 1: established data is associated with the real-time communication system for transmitting messages; and see Beeman, [0036], Fig 3-5: retrieval analyze images to identify attributes and metadata associated with the image).*

With respect to claim 5, the combined teachings of Jones and Beeman further discloses wherein the linking of the images with an identifier is performed by the telecommunications operator or by an image sharing service provider *(see Jones, [0041-0044], Fig 1: established data is associated with the real-time communication system for transmitting messages; and see Beeman, [0020], Fig 3-5: network is associated with the image retrieval and processing).*

With respect to claim 6, the combined teachings of Jones and Beeman further discloses wherein at least one of the search operations for saved multimedia data and their transmission to an addressee are conditional operations *(see Jones, [0052], [0057], [0059]: the transmission operation is conditional; and see Beeman, [0039-0042], Fig 6A-6B: the search and transmission are conditional based on user query).*

With respect to claim 7, the combined teachings of Jones and Beeman further discloses wherein the multimedia data requests include at least one data usable as a condition of execution of the search and transmission operations *(see Jones, [0052], [0057], [0059]: the transmission operation is conditional based on user request, user device and other factors; and see Beeman,*

[0039-0042], Fig 6A-6B: the search and transmission are conditional based on user query)..

With respect to claim 8, the combined teachings of Jones and Beeman further discloses wherein the data usable as a condition of execution is an event data contained in the image request *(see Jones, [0041-0045], [0052], [0057], [0059]: the transmission operation is conditional based on user request, user device and other factors; and see Beeman, [0039-0042], Fig 6A-6B: the search and transmission are conditional based on user query).*

With respect to claim 9, the combined teachings of Jones and Beeman further discloses wherein the routing messages and multimedia data requests are from cameras/sound recorders provided with a connection to a telecommunications network, such as mobile phones with built-in image sensor *(see Jones, Fig 2; and see Beeman, Fig 1: requests are from mobile devices).*

With respect to claim 10, the combined teachings of Jones and Beeman further discloses wherein the image requests are from multimedia data capturing devices and image displays provided with a connection to a telecommunications network, such as mobile phones with viewing screen, suited to image or video *(see Jones, Fig 2; and see Beeman, Fig 1: requests are from mobile devices).*

With respect to claim 11, the combined teachings of Jones and Beeman further discloses on reception of the routing messages, a comparison of the event data of the multimedia data routing messages with the previously recorded event data, the comparison of the data

conditioning the processing of the multimedia data *(see Jones, [0045]: the images are indexed and stored; and see Beeman, [0036]: the received images are analyzed in relation to stored attributes associations).*

With respect to claim 12, the combined teachings of Jones and Beeman further discloses a program that can be downloaded to portable communication equipment, comprising instructions suited to sending routing and/or multimedia data request messages to execute the steps of the method according to claim 1 *(see Jones, Fig 2: the picture communication system is computer implemented with instructions; and see Beeman, [0020-0032], Fig 1-3: the method is implemented by a system with both computing software and hardware including program with instructions).*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE OWYANG whose telephone number is (571)270-1254. The examiner can normally be reached on Monday-Friday (Alternate Fridays Off): 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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